

Congress of the United States
Washington, DC 20515

December 1, 2016

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We write to you to express our concerns regarding the Consumer Financial Protection Bureau's ("CFPB" or the "Bureau") June 2, 2016 proposed rules regarding payday, vehicle title, and certain high-cost installment loans¹. The CFPB's framework not only preempts the statutory and regulatory frameworks currently in place in our states, but has been constructed in a way that will result in the elimination of regulated small dollar credit products from the market, leaving our constituents without access to credit or forcing them to seek riskier, illegal forms of short term credit. Furthermore, the Bureau's proposal fails to consider the effects this constriction of credit will have on the consumers who need these financial products and will actually harm the very same hard-working Americans the Bureau claims it is trying to protect.

The CFPB's proposal attempts to further regulate an industry that is already highly regulated by nearly a dozen federal laws including the Truth in Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and the Electronic Funds Transfer Act. In addition, our states and tribal governments presently possess their own regulatory frameworks governing short-term credit providers, reflecting hard earned compromises between government officials, consumers and industry. Unfortunately, the CFPB's proposed regulations will preempt these longstanding laws that have protected consumers while continuing to provide them with access to their products.

By the CFPB's own admission, under these rules, lenders will lose up to 75 percent of their revenue which will put most out of business, yet does not suggest where consumers should turn to fulfill their short term credit needs. As you are well aware, the need for credit does not simply disappear. Access to credit has, and will continue to be, critical to millions of Americans. In fact, the Federal Reserve reported last year that nearly 47 percent of all American consumers could not cover a \$400 emergency.² Consumers use short term credit to cover unexpected expenses, or to fill the gaps in irregular income. To take what is often times the only lawful option available to make ends meet away from individuals without offering an alternative is irresponsible and is

¹ Notice of Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans, Docket No. CFPB-2016-0025.

² <http://www.federalreserve.gov/econresdata/2014-report-economic-well-being-us-households-201505.pdf>.

in direct conflict of the CFPB's mission to "make consumer financial markets work for consumers, responsible providers, and the economy as a whole."

Of further concern is the CFPB's lack of consumer research during the drafting of this proposed rule. During a February 11, 2016 House Financial Services Subcommittee on Financial Institutions and Consumer Credit hearing, Acting Deputy Director David Silberman told the Subcommittee that he had never been to a short-term lending provider location. He had not talked to consumers about their experiences with short term credit and how the proposed changes to short-term credit products may impact their families. Millions of Americans rely on small dollar loans, and we expect the Bureau to understand from those who will be affected the most by this proposed rule what the impact will be on them.

We are also troubled by the Bureau's reporting of consumer comments during this rulemaking process. While your agency prides itself on transparency, there was a significant delay in the opening of the electronic comment portal on Regulations.gov which, according to your website, is the preferred mechanism for the submission of comments. Over a month lapsed from the time the rule proposal was announced on June 2 to its publishing on Regulations.gov in late July. While your agency provided a short extension on the comment period window, it was only for roughly half of this time period. Since the comment portal opened, it has been brought to our attention that the majority of consumer comments submitted to the CFPB were not visible on the website, potentially leaving thousands of voices unheard, including those of our constituents. We understand the comment period is intended to be "public" so that all interested parties can review comments for themselves.

Accordingly, please answer the following questions regarding the Bureau's Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans in addition to the CFPB's rulemaking process more generally:

Why was there a delay in the opening of the electronic portal (Regulations.gov) for public comments and why weren't all comments published in real time?

- 1) To date, how many comments has the Bureau received on the rule, how many of those comments have been published and how much time on average does it take for comments to be published from the time they are submitted for this rule and other rules?
- 2) Is not the point of the portal to put these comments into the public domain, allowing people to read them, formulate an opinion, and respond? We understand that upwards of 1.4 million comments have been submitted, however only a fraction are posted on the website³. Is there intent to hide the comments

³ Lorraine Woellert, "Payday-lending crackdown draws 1.4 million letters of protest," *Politico*, October 18, 2016: <http://www.politico.com/story/2016/10/consumer-bureaus-payday-lending-curb-draws-14-million-letters-of-protest-229942>.

of consumers who support the current state regulatory framework of legal licensed short term lending?

- 3) What happens after public comments are received? Is there any type of subjective analysis that occurs prior to posting? Please share any guidelines or procedures that the Bureau may follow with respect to receiving and publishing comments.
- 4) If 75 percent of revenue is lost to the lending industry, where do our constituents and the millions of Americans who rely on state and federally regulated short term loans turn to for their credit needs?

We look forward to your response by not later than December 1, 2016. If you have any questions regarding this request, please contact andy.taylor@mail.house.gov (Duffy) or Jared Sawyer at jared.sawyer@mail.house.gov (Neugebauer).

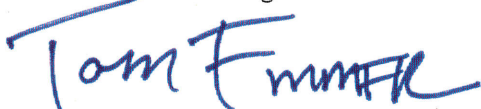
Sincerely,



SEAN DUFFY
Member of Congress



BLAINE LUETKEMEYER
Member of Congress



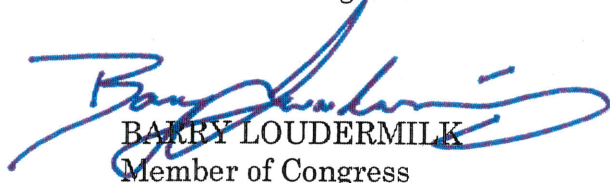
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ANDY BARR
Member of Congress



STEVE STIVERS
Member of Congress



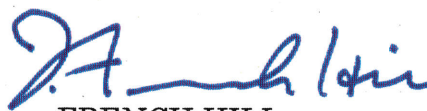
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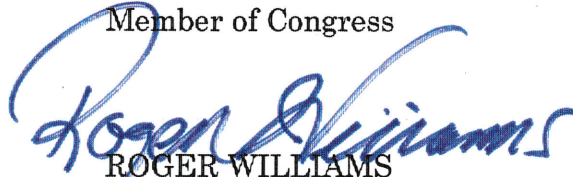
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FRENCH HILL
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ROGER WILLIAMS
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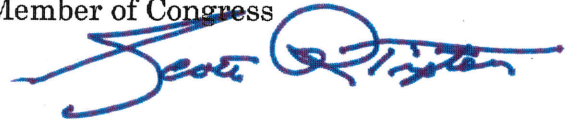
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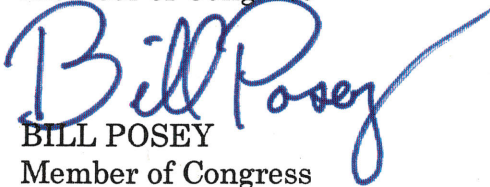
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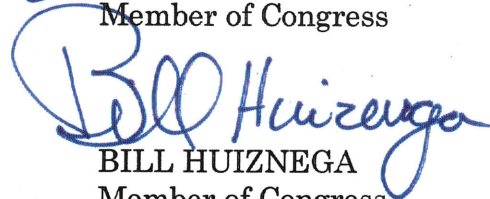
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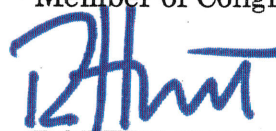
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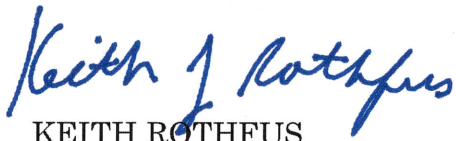
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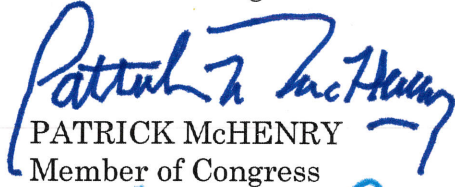
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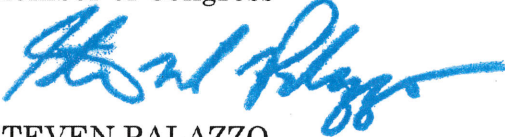
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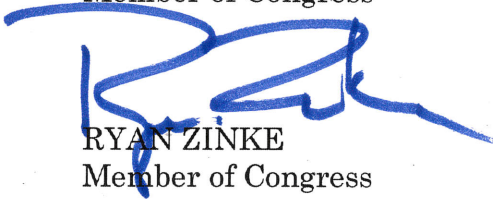
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RYAN ZINKE
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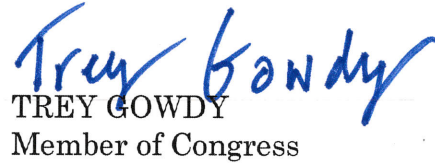
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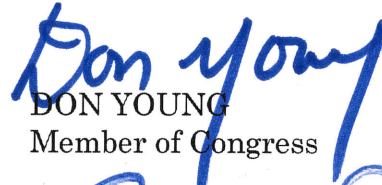
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